

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LUCINDA JENKINS-HAMBY,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 3:18-cv-05783-RAJ

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

I. INTRODUCTION

This matter is before the Court on Plaintiff's objections to the Report and Recommendation of Magistrate Judge Mary Alice Theiler. Dkt. # 11. Having considered Plaintiff's objections, the Court **ADOPTS** the Report and Recommendation.

II. DISCUSSION

The background of this matter is detailed in Magistrate Judge Mary Alice Theiler's Report and Recommendation and will not be repeated here. *See* Dkt. # 11. Plaintiff objects to the Report and Recommendation and contends that the credit-as-true rule compels this Court to remand the case for an immediate award of benefits instead of further proceedings. Dkt. # 8.

Before a Court may remand a case to the ALJ with instructions to award benefits, three requirements must be met: (1) the record has been fully developed and further administrative proceedings would serve no useful purpose; (2) the ALJ has failed to

1 provide legally sufficient reasons for rejecting evidence, whether claimant testimony or
2 medical opinion; and (3) if the improperly discredited evidence were credited as true, the
3 ALJ would be required to find the claimant disabled on remand. *Burrell v. Colvin*, 775
4 F.3d 1133, 1141 (9th Cir. 2014); *Garrison v. Colvin*, 759 F.3d 995 (9th Cir. 2014).
5 Magistrate Judge Theiler found that it was not clear that the record had been fully
6 developed, noting such outstanding issues such as the effect of plaintiff's failure to comply
7 with her medication regimen and other treatment recommendations on her functioning and
8 the extent to which her symptoms were unusually exacerbated during in-patient
9 hospitalizations versus her day-to-day functioning. Dkt. # 11. This Court, taking Plaintiff's
10 objections into consideration, agrees that is not clear that the record has been fully
11 developed and that further proceedings would serve no useful purpose. Accordingly, the
12 Court **ADOPTS** Magistrate Judge Theiler's Report and Recommendation.

13 **III. . CONCLUSION**

14 For the reasons stated above, and having considered Plaintiff's objections, the
15 Court **ADOPTS** the Report and Recommendation.

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17 DATED this 31st day of October, 2019.

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20 The Honorable Richard A. Jones
21 United States District Judge
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